

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Terry W. & Brenda S. Gentle and Ann R. Wilson)
 Dist. 3, Map 107P, Group B, Control Map 107P,) Marion County
 Parcel 36.00M, S.I. 001)
 Residential Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:¹

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$27,000	\$ -0-	\$27,000	\$10,800

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on May 18, 2006 in Jasper, Tennessee. In attendance at the hearing were Terry W. Gentle, the appellant, Marion County Property Assessor, Judy Brewer, and Tom Winfrey, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of 1,052.61 acres of severed mineral rights located on 58 different parcels in Marion County, Tennessee.

The taxpayer contended that subject property should be valued at \$1,000. In support of this position, the taxpayer argued that he purchased subject mineral rights from Kerr-McGee Chemical, LLC ["Kerr-McGee"] on April 25, 2005 for \$1,000. The taxpayer asserted that the transaction was an arm's length transaction between unrelated parties indicative of market value.

The assessor contended that subject property should be valued at \$25 per acre or \$26,300 after rounding. In support of this position, Mr. Winfrey introduced into evidence the December 22, 2003 sale of 23,425.29 acres of mineral rights for \$25 per acre or \$586,000. Mr. Winfrey also entered into evidence the July 1, 2004 sale of 3,732.9 acres of mineral rights for \$56 per acre.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

¹ This reflects an appraisal of \$25 per acre for 1,079 acres. The assessor and taxpayer stipulated that the correct acreage is 1,052.61 rather than the 1,079 acres indicated on the property record card.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$25 per acre based upon the presumption of correctness attaching to the decision of the Marion County Board of Equalization.

Since the taxpayer is appealing from the determination of the Marion County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). The administrative judge finds that the taxpayer's purchase occurred after January 1, 2005 and is technically irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. For ease of reference, a copy of the Commission's ruling has been appended to this order as exhibit A.

The administrative judge finds that even if the taxpayer's purchase was relevant, the administrative judge would not necessarily adopt it as the basis of valuation for any of several reasons. First, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990);

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the sales introduced by Mr. Winfrey indicated that mineral rights can, in fact, command \$25 or more per acre. Second, subject mineral rights were never offered for sale on the open market. Instead, Kerr-McGee agreed to sell the mineral rights after being contacted directly by the taxpayer.² Third, the administrative judge finds the fact Kerr-McGee was willing to sell the mineral rights for \$1 per acre does not necessarily mean that it could not have obtained a significantly higher price by actively marketing the property. Fourth, the administrative judge finds that the taxpayer has attempted to sell the mineral rights for more than \$25 per acre and has rejected an offer of

² Kerr-McGee did not charge the buyers anything for the mineral rights on their particular parcels.

\$3 per acre for a portion of the acreage. Fifth, the taxpayer testified that the purchase was “speculative” and he had “no idea” of the actual intrinsic value of the mineral rights.

Based upon the foregoing, the administrative judge finds it unnecessary to further address the assessor’s proof. The administrative judge finds that the assessor could have moved for a directed verdict due to the taxpayer’s failure to carry the burden of proof.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$26,300	\$ -0-	\$26,300	\$10,520


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of May, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Terry W. Gentle
Judy Brewer, Assessor of Property

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ASSESSMENT APPEALS COMMISSION

IN RE: Acme Boot Company & Ashland City)
 Industrial Corporation,) Cheatham County
 Dist. 01, Map 055K, Group A,)
 Control Map 055K, Parcel 00200,)
 S.I. 000, Tax Year 1989)

FINAL DECISION AND ORDER

Statement of the Case

Ashland City Industrial Corporation, the property owner,¹ filed this appeal with the State Board of Equalization from the decision of the administrative judge. The Assessment Appeals Commission heard this matter pursuant to Tenn. Code Ann. §§ 67-5-1412, 67-5-1501 and 67-5-1502 on April 17, 1990, in Nashville, Tennessee. Commission members present were W.C. Keaton, Bernice E. Crain, Ron Isenberg, J. Woodrow Norvell and Ogden Stokes.

Findings of Fact and Conclusions of Law

At issue in this appeal is the valuation of an industrial complex situated on 3.5 acres of land at the corner of Adkisson and South Elm Streets in Ashland City, Tennessee.

The taxpayer contended that the subject property should be valued at \$365,000. In support of this position, the taxpayer stated that the lease of the property to Acme Boot Company expired on December 31, 1989, and the boot company did not renew the lease. The property was for sale in 1989 at an asking price of \$400,000 in late 1989. Subsequently, the asking price was reduced to \$350,000, and the building finally was sold on April 6, 1990, to State Industries for use for storage of equipment for \$200,000. Testimony indicated that the building had been for sale for most of

¹Although Ashland City Industrial Corporation is indeed the owner of the subject property, the relevant assessment records list Acme Boot Company, a former tenant, as the property owner.

the last five years and that the taxpayer felt that the building's 12 foot ceilings and wooden floors were a deterrent to the sale.

The taxpayer also contended that the income approach to value should be considered in arriving at the valuation of the subject property. The lease between the taxpayer and Acme Boot Company was a net, net, net lease with rental payments of \$23,000 annually. From January 1, 1990, to the sale of the building, State Industries rented it from the taxpayer for \$1650 a month.

Cheatham County, through the Division of Property Assessments, recommended that the property should be reduced in value from \$670,300, as found by the administrative judge, to \$520,000. In support of this position, the Division introduced the cost approach to value and the sales of three other industrial properties. The Division did not use the income approach in arriving at its valuation of the property, and did not weigh heavily the cost approach.

Additionally, the Division's representative argued that the asking prices of the subject property after January 1, 1989, the sale of the property on April 6, 1990, and the boot company's decision to allow its lease to expire are irrelevant to a 1989 appeal since those events occurred after the assessment date. Furthermore, the Division's representative contended that the roof damage mentioned by the taxpayer was irrelevant to this appeal as it happened during the hard freeze in December 1989.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values"

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. American Institute of Real Estate Appraisers, The Appraisal of Real Estate at 42 (9th ed. 1987). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators

to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. Id. at 499-503.

The value to be determined in the present case is market value. A generally accepted definition of the market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. Id. at 33.

Since the taxpayer is appealing from the decision of the administrative judge, the burden of proof in this matter is on the taxpayer. Big Fork Mining Company v. Tennessee Water Quality Control Board, 620 S.W.2d 515 (Tenn. Ct. App. 1981). The Commission finds that the taxpayer introduced insufficient proof to support a reduction in value for tax year 1989.

The assessment date relevant to this appeal for tax year 1989 is January 1, 1989. Tenn. Code Ann. § 67-5-504(a). As noted by the administrative judge in his decision, "[e]vents occurring after that date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Initial Decision and Order of the administrative judge, p. 2.

The Commission accepts the Division's proposed reduction in value from that determined by the administrative judge as well supported by the evidence introduced in its appraisal report.

Order

It is, therefore, ORDERED, ADJUDGED AND DECREED, that the following values be adopted for tax year 1989:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$52,500	\$467,500	\$520,000	\$208,000

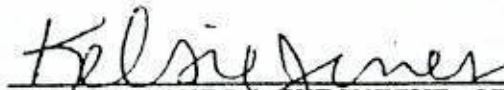
Pursuant to Tenn. Code Ann. § 67-5-1502 and the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301--324, the parties are advised of the following remedies:

1. A party may petition for a stay of effectiveness of this order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order; or
2. A party may petition for reconsideration of this order pursuant to Tenn. Code Ann. § 4-5-317 within ten (10) days of entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. The State Board of Equalization at its sole discretion, may enter an order requiring review of the action of the Commission within forty-five (45) calendar days of the date of the Commission's opinion. If a party desires to petition the State Board of Equalization to consider such review, a written petition must be filed with the Executive Secretary of the State Board of Equalization within fifteen (15) calendar days of the Commission's written opinion.

August 7, 1990
DATE


CHAIRMAN OR PRESIDING MEMBER

ATTEST:


KELSIE JONES, EXECUTIVE SECRETARY
STATE BOARD OF EQUALIZATION

cc: Julian M. Empson
Betty G. Balthrop, Assessor of Property
Ray Kennedy, State Appeals Coordinator

V084HJ